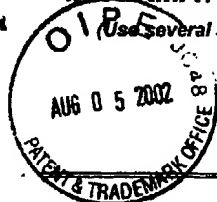


INFORMATION DISCLOSURE CITATION

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COPY OF PAPERS
ORIGINALLY FILEDATTY. DOCKET NO.
188051
APPLICATION NO.
09/988,462
APPLICANT
KOZIEL et al
FILING DATE:
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8906
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1638

U.S. PATENT DOCUMENTS

| EXAMINER INITIAL | DOCUMENT NUMBER | DATE | NAME | CLASS | SUBCLASS | FILING DATE |
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| A | | | | | | |

FOREIGN PATENT DOCUMENTS

| | DOCUMENT NUMBER | DATE | OFFICE | CLASS | SUBCLASS | TRANSLATION | |
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| EM | D | Batley, N.H., <i>Calcium-Activated Protein Kinase from Soluble and Membrane Fractions of Maize Coleoptiles</i> <i>Biochemical and Biophysical Research Communications</i> , Vol. 170, No. 1 (July 16, 1990) pp. 17-22 |
| | E | Harper et al., <i>A Calcium-Dependent Protein Kinase With a Regulatory Domain Similar to Calmodulin Science</i> , Vol. 252, (May 17, 1991) pp. 951-954 |
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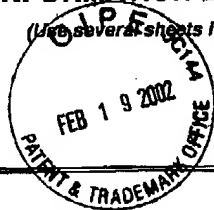
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ATTY. DOCKET NO.
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Sheet 1 of 3

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| gm | AA | 5,625,136 | 4/29/97 | Koziel et al. | 800 | 205 | 9/25/92 |
| | AB | 6,121,014 | 9/19/00 | Koziel et al. | 435 | 69.1 | 6/2/95 |
| | AC | 6,051,760 | 4/18/00 | Koziel et al. | 800 | 302 | 6/2/95 |
| | AD | 6,075,185 | 6/13/00 | Koziel et al. | 800 | 302 | 6/2/95 |
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| | AF | 5,380,831 | 1/10/95 | Adang et al. | 536 | 32.71 | 5/3/93 |
| | AG | 5,436,391 | 1/25/95 | Fujimoto et al. | 800 | 205 | 11/27/92 |
| | AH | 6,320,100 | 11/20/01 | Koziel et al. | 800 | 279 | 4/11/00 |
| | AI | 6,331,665 | 12/18/01 | Lundquist et al. | 800 | 302 | 3/20/96 |
| gm | AJ | App. No. 08/438,666 | Pending | Koziel et al. | | | 5/10/95 |

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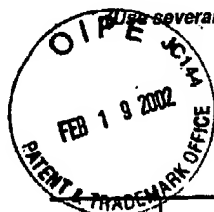
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Sheet 2 of 3

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| BD | He, Y.K. et al., <i>Differential mercury volatilization by tobacco organs expressing a modified bacterial merA gene</i> <i>Cell Research</i> , Vol. 11(3) (2001) pp. 231-236 |
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| BF | Kim, et al. <i>A 20 nucleotide upstream element is essential for the nopaline synthase (nos) promoter activity</i> <i>Plant Molecular Biology</i> , Vol. 24 (1994) pp. 105-117 |
| BG | Kuvshinov, V. et al., <i>Transgenic crop plants expressing synthetic cry9Aa gene are protected against insect damage</i> <i>Plant Science</i> , Vol. 160 (2001) pp. 341-353 |
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| BJ | Murray et al., <i>Analysis of unstable RNA transcripts of insecticidal crystal protein genes of Bacillus thuringiensis in transgenic plant and electroporated protoplasts</i> <i>Plant Molecular Biology</i> , Vol. 16 (1991) pp. 1035-1050 |

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FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE
(REV. 2-82) PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE STATEMENT
BY APPLICANT

Atty. Docket No.
1104628-0016

Serial No.
09/988,462

Applicants:
Koziel et al.

Filing Date:
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FOREIGN PATENT DOCUMENTS

| *Examiner Initial | Document No. | | | | | | | Date | Country | Class | Sub-Class | Translation | |
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Date Considered: 11/5/03

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| FORM PTO-1449 (REV. 2-82) | U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Atty. Docket No. 1104628-0016 | Serial No. 09/988,462 |
| | | Applicants: Koziel et al. | |
| | | Filing Date: November 20, 2001 | Group: 1638 |

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Examiner: 97M-2L

Date Considered: 11/5/03

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| | | Filing Date: November 20, 2001 | Group: 1638 |

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Examiner: *STME*

Date Considered: 11/5/03

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| EM | Declaration of Steven v. Evola dated September 3, 1992. Considered. Do NOT PRINT |
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Examiner: EFM

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Testimony of Michael E. Fromm, Oct. 30, 1998, pp. 1175-1207, Novartis v Monsanto Co. & DeKalb Genetics Corp., U.S. District Court for the District of Delaware, Civ. Act. No. 97-39; 97-40 (RRM).

9m

Testimony of Thomas B. Klevorn, dated June 16, 1998, pp. 48-145, Monsanto Co., v. Mycogen Plant Sciences Inc., Agrigenetics, Inc. and Novartis Corp., U.S. District Court for the District of Del., Civ. Act. No. 96-133 (RRM)

96

Testimony of Michael A. Stephens, dated February 19, 2001, pp.1078-1296, DeKalb Genetics Co. v. Pioneer Hi-Bred Int'l, U.S. District Court for the Northern District of Del., Civ. Act. No. 96C50112 (PGR)

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Atty. Docket No.
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Serial No.
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Applicants:
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UNITED STATES PATENT DOCUMENTS

| *Examiner Initial | Document No. | | | | | | | Date | Name | Class | Sub-Class | Filing Date, if Appropriate |
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| EM | 6 | 4 | 0 | 3 | 8 | 6 | 5 | 06/11/2002 | Koziel et al. | | | |
| EM | 6 | 3 | 2 | 0 | 1 | 0 | 0 | 11/20/2001 | Koziel et al. | | | |
| EM | 6 | 3 | 3 | 1 | 6 | 6 | 5 | 12/18/01 | Lundquist et al. | | | |
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FOREIGN PATENT DOCUMENTS

| *Examiner Initial | Document No. | | | | | | | Date | Country | Class | Sub-Class | Translation Yes No | |
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OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

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| EM | Kim et al., A 20 nucleotide upstream element is essential for the nopaline synthase (nos) promoter activity (1994) Plant Mol. Biol. 24(1):105-117. |
| EM | Harper et al., Calcium and lipid regulation of an Arabidopsis protein kinase expressed in Escherichia coli (1993) Biochemistry 32(13): 3282-3290. |
| EM | Murray et al., Analysis of unstable RNA transcripts of insecticidal crystal protein genes of Bacillus thuringiensis in transgenic plants and electroporated protoplasts (1994) Plant Mol. Biol. 16:1035-1050. |
| | Duplicates lined through |
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Examiner: EFM:EL

Date Considered: 11/5/03

*Examiner: Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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| FORM PTO-1449 (REV. 2-82) | U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Atty. Docket No. 1104628-0016 | Serial No. 09/988,462 |
| | | Applicants: Koziel et al. | |
| | | Filing Date: November 20, 2001 | Group: 1638 |

UNITED STATES PUBLISHED PATENT APPLICATIONS

| *Examiner Initial | Document No. | Date | Name | Class | Sub-Class | Filing Date, if Appropriate |
|-------------------|-----------------------|---------|---------------|-------|-----------|-----------------------------|
| EM | 2 0 0 1 0 0 0 3 8 4 9 | 6/14/01 | Barton et al. | 800 | 279 | 4/17/98 |
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OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

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| EM | Published opinion – <u>Monsanto v. Mycogen Plant Science, Inc.</u> , 261 F.3d 1356 (Fed. Cir. 2001) |
| | Published opinion – <u>Monsanto v. Mycogen Plant Science, Inc.</u> , 61 F. Supp. 2d 133 (D. Del. 1999) |
| | Trial Testimony – <u>Monsanto v. Mycogen & Ciba Geigy</u>, Civil Action No. 96-133 (RRM), pp. 120-137 |
| | Trial Testimony of Kenneth Barton – <u>Monsanto v. Mycogen & Ciba Geigy</u>, Civil Action No. 96-133 (RRM), pp. 1047-1066 |
| | Trial Testimony of Michael Miller – <u>Monsanto v. Mycogen & Ciba Geigy</u>, Civil Action No. 96-133 (RRM), pp. 1097-1110 |
| | Trial Testimony of Sandra Cannon – <u>Monsanto v. Mycogen & Ciba Geigy</u>, Civil Action No. 96-133 (RRM), pp. 1110-1125 |
| | Trial Testimony – <u>Monsanto v. Mycogen & Ciba Geigy</u>, Civil Action No. 96-133 (RRM), pp. 2207-2228 and 2689 – 2701 |
| | 30(b)(6) Statement made by Monsanto concerning the Barton and Miller work, read into the record at the trial of <u>Monsanto v. Mycogen & Ciba Geigy</u>, Civil Action No. 96-133 (RRM), pp. 1307-1312 |
| | Excerpts from Michael J. Miller notebook 366 |
| | Excerpts from Ken Barton notebook 156 |
| | Excerpts from Sandra Cannon notebook 323 |
| | Excerpts from Sandra Cannon notebook 316 |
| | Excerpts from Sandra Cannon notebook 413 |
| | Excerpts from Michael Miller notebook 404 |
| | Improved Expression of Genes in Plants |
| TM | Agracetus Research and Development Report: Third Quarter, 1988 |

Examiner: EM-EL

Date Considered: 11/5/03

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Documents considered. No dates

Serial No.
09/988,462

Filing Date:
November 20, 2001

Group:
1638

9m

Defendants Trial Exhibit 2081, Fromm et al., Biotechnology, September 1990, pp. 833-839.

Defendants Trial Exhibit 2154A, Excerpt from Notebook entitled "Particle gun expt. Gun 27 →" referring to gun experiment number 147.

~~Plaintiff's Trial Exhibit 510, Armstrong Notebook monthly reports pasted into notebook in 1993.~~

~~Trial Testimony of Frederick Perlak - Novartis Seeds, Inc. v. Monsanto Co. & DeKalb Genetics Corp., Civil Action No. 97-39&40 (RRM), pp. 1312-1356.~~

Defendants' Trial Exhibit 1895-A, Excerpts of Monsanto Notebook, dated 12/12/86.

Defendants' Trial Exhibit Nos. 1725, Perlak Notebook No. 3,706,601, dated March 13, 1987

Defendants' Trial Exhibit 1725-A, Excerpt of Perlak Notebook No. 3,706,601, September 8, 1987

Defendants' Trial Exhibit 1730, Perlak Notebook 3,850,001, dated November 20, 1987

Defendants' Trial Exhibit 1227, Perlak et al., Biotechnology, October 1990, pp. 939-943.

Defendants' Trial Exhibit 1969, Perlak et al., Proc. Natl. Acad. Sci. USA, April 1991, pp. 3324-3328.

Defendants' Trial Exhibit 1024, Koziel et al., reprint from *Biotechnology*, February 1993, pp. 194-200.

~~Defendants' Trial Exhibit 2549, DNA sequence.~~

~~Defendants' Trial Exhibit 2550, "Modified Bt Gene Designed By Monsanto".~~

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Plaintiff's Trial Exhibit 1672, U.S. Patent 5,763,241, dated June 9, 1998.

Examiner: EFMeli

Date Considered: 11/5/03

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| FORM PTO-1449 (REV. 2-82) | U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Atty. Docket No. | Serial No. |
| | | 1104628-0016 | 09/988,462 |
| | | Applicants: Koziel et al. | |
| | | Filing Date: | Group: |
| | | November 20, 2001 | 1638 |

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

[illegible]

Examiner: E F McElmer

Date Considered: 11/5/03

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FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE
(REV. 2-82) PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE STATEMENT
BY APPLICANT

Atty. Docket No.
1104628-0016

Serial No.
09/988,462

Applicants:
Koziel et al.

Filing Date:
November 20, 2001

Group:
1638

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

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|----|--|
| Em | Trial Testimony of Irvin Mettler - Novartis v. Monsanto, Civil Action No. 97-39 & 97-40, pp. 2299-2336 |
| | Trial Testimony of Irvin Mettler - Novartis v. Monsanto, Civil Action No. 97-39 & 97-40, pp. 2337-2354 |
| | Trial Testimony of Irvin Mettler - Plant Genetics Systems v. Northrup King, Civil Action No. 96-459, pp. 850-957 |
| | Trial Testimony of Ed Resler - Novartis v. Monsanto, Civil Action No. 97-39 & 97-40, pp. 733-741 |
| | Trial Testimony of Stephen Evola - Novartis v. Monsanto, Civil Action No. 97-39 & 97-40, pp. 399-526 |
| | Trial Testimony of Stephen Evola - Monsanto v. Mycogen & Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 827-891 |
| | Trial Testimony of Thomas Klever - Monsanto v. Mycogen & Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 262-264 |
| | Trial Testimony of David Fischhoff - Monsanto v. Mycogen & Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 1953-1955 |
| | Agreement between Monsanto Company and Sandoz for Development of Insect Resistant Corn |
| | Excerpts from Palo Alto Plant Biotechnology Report: First Quarter, 1989 (DX 2665) |
| | ZRB Project Meeting (DX 2281) |
| | Modification of the Research Agreement Between Monsanto Company Sandoz (DX 2269) |
| | PAB-6 Technical Report (DX 2266) |
| | PAB-10 Bt Insect Resistance (DX 2284) |
| | DNA Samples and expressions cassettes for expression of B.T. toxin protein and PAT |
| | Samples of Northrup NK-A and NK-B to be used in backcrosses. |
| | Shipment of 10 best frozen leaf tissue from each experiment for crossing to NK-A and NK-B lines. |
| | Report on Maize transformation experiments with Sandoz plasmids 1502 and 1503. |
| | Letter from G. Donn to Irvin Mettler regarding shipment of leaf samples |
| | Plants from transformants Nr. 1502-1, 1503-2, 1502-11 and 1503-3, 1503-7 will follow soon (DX 2286) |
| | Letter from Gunter Donn to Irvin Mettler regarding shipment of leaf samples (DX 2285) |
| Em | Facsimile from Irvin Mettler to Ron Meeusen referencing facsimile from Mettler to Donn regarding ELISA assays (PX278) |

Examiner:

Em

Date Considered:

11/5/03

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Documents lined through have been considered - Do NOT PRINT, No dates

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| FORM PTO-1449 (REV. 2-82) | U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE | Atty. Docket No. 1104628-0016 | Serial No. 09/988,462 |
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | | Applicants: Koziel et al. | |
| | | Filing Date: November 20, 2001 | Group: 1638 |

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

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| EM | Stanton Biotechnology - October Highlights (PX194) |
| | Facsimile from Irvin Mettler to Gunter Donn regarding ELISA assays and the collection of additional plant organ samples (PX195) |
| | Northrup King Biotechnology Report (DX 2256) |
| | Minutes of the Bt (MDMV) Corn Planning Meeting, Stanton, Minnesota |
| | Biologische Forschung, Bereich C, H 872 N |
| | PAB-10 Bt Insect Resistance Fourth Quarter Report (DX 2288) |
| | Fourth Quarter Report of Plant Biotechnology |
| | Cover letter from G. Donn to I. Mettler with enclosures lyophilized leaf samples from 1502 plants. (PX281) |
| | Facsimile from Gunter Donn to Ron Meeusen regarding field testing (PX640) |
| | Facsimile from Irving Mettler to Gunter Donn regarding ELISA assays (PX282) |
| | Facsimile from G. Donn to L. Murry re western analysis |
| | Facsimile from G. Donn to R. Meeusen re: the shipment of maize seeds to the APHIS-inspection station. |
| | Facsimile from G. Donn to R. Meeusen re: shipment of seeds sent |
| | Plant Biotechnology Report: Third Quarter, 1992 |
| | Transgenic Project #1 (DX 2255) |
| | B.T. Corn NK 1996 Product (PX382) |
| | Summary of bioactivity assays of contra-transformed BMS calli (conducted July 11 & August 1, 1990). Insect assay with 1st instar Manduca sexta larvae (0 to 6 hours old), five per plate. Assays conducted and scored by D. Cerf. (DX 2282) |
| EM | Research Highlights - Novel Genetics (PX20) |
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Examiner: *ETH*Date Considered: *11/5/03*

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Atty. Docket No.
1104628-0016

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Applicants:
Koziel et al.

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November 20, 2001

Group:
1638

UNITED STATES PUBLISHED PATENT APPLICATIONS

| *Examiner Initial | Document No. | Date | Name | Class | Sub- Class | Filing Date, if appropriate |
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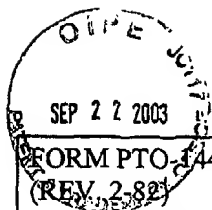
OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

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Examiner: *SFM-22*

Date Considered: 11/5/03

***Examiner:** Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



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| FORM PTO-449 (REV. 2-82) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Atty. Docket No. 1104628-0016 | Serial No. 09/988,462 |
| | Applicants: Koziel et al. | |
| | Filing Date: November 20, 2001 | Group: 1638 |

UNITED STATES PATENT DOCUMENTS

| *Examiner Initial | Document No. | Date | Name | Class | Sub- Class | Filing Date, if Appropriate |
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FOREIGN PATENT DOCUMENTS

| *Examiner Initial | Document No. | Date | Country | Class | Sub-Class | Translation Yes No |
|----------------------|---------------|-------------|-----------|-------|-----------|-----------------------|
| EM | 3 6 5 6 8 8 9 | 21 Dec 1989 | Australia | | | |
| EM | 4 6 8 8 1 8 9 | 21 Jun 1988 | Australia | | | |
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OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

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| EM | Motion of Defendant Dow Agrosciences LLC, Mycogen Plant Science, Inc. and Agrigenetics, Inc. For Leave to Amend Its Answer |
| EM | Motion for Leave to File Second Amended Answer and Counterclaims, by Defendants Monsanto Company and DeKalb Genetics Corp. |
| EM | Pioneer Hi-Bred International, Inc.'s Motion to Further Amend Its Answer, Affirmative Defenses and Counterclaims |
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| | Documents considered - DO NOT PRINT |
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Examiner: EFM:el

Date Considered: 11/5/03

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